

FREDERICK COUNTY LIQUOR BOARD
Public Meeting Minutes
Monday, November 14, 2011

Those Present: Mr. James E. McClellan, Chairman
Mr. Charles R. Cline, Board Member
Mr. Richard E. Zimmerman, Board Member
Mrs. Linda B. Thall, Sr. Assistant County Attorney
Mr. Harold C. DeLauter, Alcoholic Bev. Inspector
Mrs. Sandra Rees, Administrative Specialist IV

A Public Meeting was held at 12 E. Church Street, Frederick, Maryland, and was called to order at 8:45 am by Chairman McClellan.

1. **Brunswick American Legion** – Mrs. Rees stated that there was a request from this establishment to remove walls and relocate the pool table. The Board approved this request.
2. **Christmas Dinner** – Mrs. Rees stated that she was planning a Christmas Dinner and discussed this with the Board.
3. **Liberty Road Seafood** – Mr. Cline asked if this restaurant had closed. Mrs. Rees stated that the licensee had surrendered the license November 1, 2011.
4. **Spring Ridge Exxon** – Mr. Cline asked if there was a Violation Hearing set for this establishment. Mrs. Rees said she would find out if a Hearing was scheduled.
5. **Nola Restaurant** – The Liquor Inspector stated that this establishment will be scheduled for a Violation Hearing for not maintaining the barrier for their patio.
6. **Minutes for October 3 and October 24** – The Board decided to defer a vote to approve the minutes to allow more time for the Board members to review the drafts.
7. Decision Required: Violation

RE: Linda Bentz, Anna Holsinger
& Patricia Klipp
for the use of ADH, Inc.
t/a East Street Liberty

1301 N. East Street
Frederick, Maryland 21701
Class A, Off Sale, Beer & Light Wine
License Number 11AW 1026 SU
FCLB Case Number: 5209

The Board held a violation hearing on a charge that on June 24, 2011, either directly or through an employee, the licensees sold an Alcoholic beverage to a minor. Mrs. Thall swore in the licensees and potential witnesses. (See Attached Sign In Sheet). The licensees pled Not Guilty and the Attorney, Mr. Bricken, requested to sequester the witnesses. The Board granted the request.

Mr. Bricken made a motion to dismiss the Violation charges.

MOTION ONE: Mr. Cline made a motion to deny the request.

SECOND: Mr. Zimmerman seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Cline – Aye
Mr. Zimmerman – Aye
Mr. McClellan – Aye

The vote was unanimous. **Aye – 3 Nay – 0**
(Motion Passed)

Mr. Bricken stated that the clerk Mr. Cook has dyslexia which is a medical condition and he cannot read numbers correctly.

Mr. Bricken objected to the witness, Chelsey Warner not being in attendance and objected to hearsay testimony from Officer Hoxie and asked that the case be dismissed.

MOTION ONE: Mr. Cline made a motion to proceed. There was no second.

Mr. Zimmerman stated Mr. Bricken had a valid objection.

Due to the temporary absence of witness Cpl. Patswald, the Board requested a 10 minutes recess.

MOTION ONE: Mr. Cline made a motion for a 10 minute recess.

SECOND: Mr. Zimmerman seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Cline – Aye
Mr. Zimmerman – Aye
Mr. McClellan – Aye

The vote was unanimous. **Aye – 3 Nay – 0**
(Motion Passed)

Testimony was heard from Officer Hoxie, Officer Payne and Cpl. Patswald.

Mr. Bricken stated that there was no bottle as evidence, there was no witness to purchasing the alcohol, the picture was not admitted into evidence and stated there is no case and asked that the case be dismissed. Mrs. Thall asked that the picture be admitted into evidence as Board's Exhibit #1.

MOTION ONE: Mr. Zimmerman made a motion to deny the request for the evidence not to be admitted.

SECOND: Mr. Cline seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Cline – Aye
Mr. Zimmerman – Aye
Mr. McClellan – Aye

The vote was unanimous. **Aye – 3 Nay – 0**
(Motion Passed)

MOTION ONE: Mr. Cline made a motion to deny the request for dismissal.

SECOND: Mr. Zimmerman seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Cline – Aye
Mr. Zimmerman – Aye

Mr. McClellan – Aye

The vote was unanimous. **Aye – 3 Nay – 0**
(Motion Passed)

Mr. Cline asked that Mr. Cook the clerk who sold to the minor come in and be questioned.

Mr. Bicken, Attorney for the licensees objected to the Board asking Mr. Cook to testify. Also he requested a mistrial.

MOTION ONE: Mr. Zimmerman made a motion to deny the request for a mistrial.

SECOND: Mr. Cline seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Zimmerman – Aye
Mr. Cline – Aye
Mr. McClellan – Aye

The vote was unanimous. **Aye – 3 Nay – 0**
(Motion Passed)

After Mr. Cline began questioning Mr. Cook, Mr. Bricken objected to Mr. Cline being allowed to question Mr. Cook.

MOTION ONE: Mr. Cline accepted the objection.

SECOND: Mr. Zimmerman seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Zimmerman – Aye
Mr. Cline – Aye
Mr. McClellan – Aye

The vote was unanimous. **Aye – 3 Nay – 0**
(Motion Passed)

Mr. Bricken requested a dismissal because the licensees did not know Mr. Cook had a medical condition and could not read the numbers.

MOTION ONE: Mr. Zimmerman made a motion to dismiss the case.

SECOND: Mr. McClellan seconded the motion.

MOTION ONE: Mr. Cline made a motion to deny dismissal. The motion was not seconded.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on Mr. Zimmerman's motion.

VOTE: Mr. Zimmerman – Aye
Mr. McClellan – Aye
Mr. Cline – Nay

The vote was as follows. **Aye – 2 Nay – 1**
(Motion Passed)

8. Decision Required: Violation

RE: Anne Rowley & Gerald
Sartwell
for the use of Patrick's Irish
Pub & Restaurant, Inc.
t/a Patrick's Irish Pub &
Restaurant
16 E. Patrick Street
Frederick, Maryland 21701
Class B, On Sale, Beer, Wine & Liquor
License Number 11BL 2371
FCLB Case Number: 5227

The Board held a violation hearing on charges that 1. On June 24, 2011 Alcoholic Beverages Inspector Harold C. DeLauter visited the establishment for an inspection and found two bottles of distilled spirits that were purchased from other than a duly licensed manufacturer, wholesaler or private bulk sale permit holder or nonresident winery permit holder. 2. On June 24, 2011 Alcoholic Beverages Inspector Harold C. DeLauter visited the establishment for an inspection and found two bottles of distilled spirits that were kept or permitted to be kept at the establishment after having been purchased from other than a duly licensed

manufacturer, wholesaler or private bulk sale permit holder or nonresident winery permit holder. 3. On September 1, 2011 Alcoholic Beverages Inspector Harold C. DeLauter visited the establishment for an inspection and found two bottles of distilled spirits that were purchased from other than a duly licensed manufacturer, wholesaler or private bulk sale permit holder or nonresident winery permit holder. 4. On September 1, 2011 Alcoholic Beverages Inspector Harold C. DeLauter visited the establishment for an inspection and found two bottles of distilled spirits that were kept or permitted to be kept at the establishment after having been purchased from other than a duly licensed manufacturer, wholesaler or private bulk sale permit holder or nonresident winery permit holder. Mrs. Thall swore in the licensees and potential witnesses. (See Attached Sign In Sheet). Mr. Holtzinger, the attorney for the licensees, asked that the Board dismiss charges #3 and #4 because they contained an incorrect date. Ms. Thall requested that the Board permit the amendment of those two charges to reflect the correct date of August 31, 2011.

Mrs. Rees stated the license was issued on October 10, 2008 and there were no Violations. Mr. Rowley pled guilty to charges #1 and #2.

MOTION ONE: Mr. Zimmerman made a motion not to amend charges #3 and #4.

SECOND: Mr. McClellan seconded the motion.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on the motion.

VOTE: Mr. Zimmerman – Aye
Mr. McClellan – Aye
Mr. Cline - Aye

The vote was unanimous. **Aye – 3 Nay – 0**
(Motion Passed)

MOTION ONE: Mr. Zimmerman made a motion for a \$400 fine on charges #1 and #2 but in view of the good record of the licensees the fine will be suspended.

SECOND: Mr. McClellan seconded the motion.

MOTION ONE: Mr. Cline made a motion for half of the fine to be imposed. This motion was not seconded.

FURTHER DISCUSSION

ON THE MOTION: There was no further discussion on Mr. Zimmerman's motion.

VOTE: Mr. Zimmerman – Aye
Mr. McClellan – Aye
Mr. Cline - Nay

The vote was as follows. **Aye – 2 Nay – 1**
(Motion Passed)

ADJOURN

The meeting was adjourned at 10:26 am.

Respectfully submitted,

Kathy Vahle, Administrator
FREDERICK COUNTY LIQUOR BOARD

Prepared by Sandra Rees